

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

RYAN JOSEPH ADAMS,

Plaintiff,

v.

CAUSE NO. 2:22CV190-PPS/JEM

SGT. YOUNG, et al.,

Defendants.

OPINION AND ORDER

Ryan Joseph Adams, a prisoner without a lawyer, filed this lawsuit against Sgt. Young and the Porter County Jail, alleging that Sgt. Young verbally harassed him on June 30, 2022. ECF 1. “A document filed *pro se* is to be liberally construed, and a *pro se* complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers.” *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (quotation marks and citations omitted). Nevertheless, pursuant to 28 U.S.C. § 1915A, I must review the merits of a prisoner complaint and dismiss it if the action is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief.

Adams indicates that he filed a grievance on July 5, 2022. ECF 1 at 7. He admits the grievance process was not yet complete when he submitted his complaint on July 11, 2022, noting that he had not yet received a response to his grievance. *Id.* Prisoners are prohibited from bringing an action in federal court with respect to prison conditions

“until such administrative remedies as are available are exhausted.” 42 U.S.C. § 1997e(a).

The PLRA provides that “[n]o action shall be brought with respect to prison conditions under section 1983 . . . until such administrative remedies as are available are exhausted.” 42 U.S.C. § 1997e(a). Exhaustion is necessary even if the prisoner is requesting relief that the relevant administrative review board has no power to grant, such as monetary damages, or if the prisoner believes that exhaustion is futile.

Dole v. Chandler, 438 F.3d 804, 808-809 (7th Cir. 2006) (citations omitted). The Seventh Circuit held in *Dole* that a prisoner must file a grievance because responding to his grievance might satisfy him and avoid litigation or the grievance could “alert prison authorities to an ongoing problem that they can correct.” *Id.* at 809, citing *Porter v. Nussle*, 534 U.S. at 525.

Failure to exhaust is an affirmative defense on which the defendant bears the burden of proof. *Dole*, 438 F.3d at 809. Nevertheless, “a plaintiff can plead himself out of court. If he alleges facts that show he isn’t entitled to a judgment, he’s out of luck.” *Early v. Bankers Life and Cas. Co.*, 959 F.2d 75, 79 (7th Cir. 1992) (citations omitted). Such is the case here. “[A] suit filed by a prisoner before administrative remedies have been exhausted must be dismissed; the district court lacks discretion to resolve the claim on the merits, even if the prisoner exhausts intra-prison remedies before judgment.” *Perez v. Wisconsin Dep’t of Corr.*, 182 F.3d 532, 535 (7th Cir. 1999). Adams admits in his complaint that he did not exhaust his administrative remedies before filing suit. Therefore, this case cannot proceed. If Adams can exhaust his administrative remedies, he may file a new lawsuit.

ACCORDINGLY:

This case is DISMISSED WITHOUT PREJUDICE for failure to exhaust administrative remedies as required by 42 U.S.C. § 1997e(a).

SO ORDERED on November 2, 2022.

/s/ Philip P. Simon
JUDGE
UNITED STATES DISTRICT COURT